



Jerry Regier
Secretary

DATE: August 23, 2004

TO: Ralph Harmsen
District 2, Program Supervisor

FROM: Ed Miles *Ed Miles*
Director, Mental Health Program Office

SUBJECT: Baker Act – Local Match

I have been informed that a question has been raised regarding the requirement for matching Baker Act funds. It is my understanding that an attorney for Leon County government is questioning the obligation for provision of local match for Baker Act. It is also my understanding that the basis for this uncertainty relates to a specific reference in section 394.76(3)(b), Florida Statutes, that states "All other contracted community alcohol and mental health services and programs, except as identified in s. 394.457(3), shall require local participation on a 75-to-25 state-to-local ratio." Apparently, because section 394.457(3), Florida Statutes, makes reference to the Baker Act, the attorney for Leon County believes that Baker Act services are not subject to the local match requirement.

The statutory requirement for Baker Act match has been in place since the Baker Act was first passed. The county obligation to provide required match was further clarified in Sandegren v. State of Florida ex rel. Sarasota County Public Hospital Board, 397 So. 2d 657 (Fla. 1981). In Sandegren, the Florida Supreme Court upheld the constitutionality of the local match requirement contained in chapter 394.

The reference to the Baker Act that is contained in section 394.457(3), Florida Statutes, was not intended to exempt Baker Act Services from the local match requirement. The amendment to the Baker Act that provided the basis for section 394.457(3), Florida Statutes, was intended to provide the department with flexibility in reimbursing contractors for services; not to provide a blanket exception to Baker Act match requirements.

The Baker Act confers rule making authority to the department. The department developed FAC 65E-14005 which in accordance with statute clearly articulates the exceptions to matching requirements. This rule includes no exception to requirements to match Baker Act funds.

If anyone has questions regarding this matching requirement please have them contact me.

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